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To: Members, Co-operating members and observers of the Port State Control Committee of the Tokyo MOU

Date: 12 July 2013

Our reference: TMS13/128

Enclosures: Guidelines for PSC Officers on Maritime Labour Convention 2006

Subject: Guidelines for PSC Officers on Maritime Labour Convention 2006

Dear Sir/Madam:

The Port State Control Committee, at the PSCC23 meeting in Singapore, approved the Guidelines for PSC Officers on Maritime Labour Convention 2006 in principle and entrusted the MOU-SWG to finalize the guidelines for circulation. Attached please find the Guidelines for PSC Officers on Maritime Labour Convention 2006, finalized by the MOU-SWG. You are advised that the guidelines would also be available in the internal web-site.

Authorities, for which the Maritime Labour Convention 2006 will be effective on 20 August 2013, are invited to bring the guidelines to the attention of their PSC officers in particular.

Yours faithfully,

Mitsutoyo Okada
Secretary
Tokyo MOU Secretariat

GUIDELINES FOR PORT STATE CONTROL OFFICERS ON MARITIME LABOUR CONVENTION, 2006

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Guidelines for Port State Control Officers on MLC, 2006

Contents

1. INTRODUCTION

1.1. General

The Maritime Labour Convention, 2006 (hereafter MLC, 2006) came into force on the 20th August.2013 and it is a "relevant instrument" in the Tokyo MoU.

The relevant parts of the MLC, 2006 are the Articles, Regulations and the provisions of Part A and Part B of the Code. The provisions of Part B of the Code are not mandatory and should not be verified by the Port State Control Officer (PSCO).

Abbreviations used in this Guideline:

MLC: Maritime labour certificate

DMLC: Declaration of Maritime Labour Compliance

SEA: Seafarer Employment Agreement

MSMD: Minimum Safe Manning Document

RAP: Rectification Action Plan

Definition in Article II of the Convention should also be referred.

1.2 Application

This MLC, 2006 applies:

- to all seafarers* who are on board a ship to which MLC 2006 applies
*For the purpose of this guideline, 'seafarer' means any person who is employed or engaged or works in any capacity on board a ship to which MLC, 2006 applies. The DMLC Part I should be referred to in the event of doubt as to whether any categories of persons are to be regarded as seafarers. (Art. II, paragraph 3),
- to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities,

And, the MLC, 2006 does not apply to:

- ships engaged in fishing or in similar pursuits and
- ships of traditional build such as dhows and junks,
- warships or naval auxiliaries(Art. II, paragraph 4)

DMLC Part I should be referred to in the event of doubt as to whether MLC, 2006 applies to a ship or particular category of ships. (Art. II, paragraph 5)

1.2.1 Ships of non-Parties

Ships that fly the flag of any State that has not ratified MLC, 2006 should not receive more favourable treatment than the ships that fly the flag of any State that has ratified it. Under these circumstances the PSCO may carry out a more detailed inspection to evaluate compliance with the MLC, 2006 (Art. V. paragraph. 7).

1.3. Relevant Documentation

PSCOs should carry the following reference documentation during inspection.

- Maritime Labour Convention, 2006,
- Guidelines for Port State Control Officers carrying out inspections under the MLC, 2006,
- Guidelines for flag State Inspections under the MLC, 2006,

- Resolution XVII adopted by the International Labour Organization (ILO) at its 94th Maritime Conference concerning the practical implementation of the issue of certificates on entry into force.

1.4. Relations with inspection on other relevant conventions

Among those inspections on MLC, 2006 requirements, relevant inspections on SOLAS and STCW Convention should be dealt with in accordance with the existing standards on those Conventions.

2. INSPECTION OF SHIP

Where a PSC inspection under the MLC, 2006 is carried out, an initial inspection and, if necessary, a more detailed inspection may be carried out in a similar manner to SOLAS, STCW and other Conventions.

(Regulation 5.2.1)

2.1. Pre-boarding preparation

In preparing for an inspection the PSCO should:

- Verify whether the ship is flying the flag of a State that has ratified MLC, 2006
- Verify whether there are any ship related messages or outstanding deficiencies
- Take due note of the ship particulars in relation to applicability of certain elements of the MLC, 2006

2.2. Initial Inspection

2.2.1 Certificates and documents

During an initial inspection, including the tour of the ship, the PSCO should check that the ship has

- A valid MLC or Interim MLC, and
- A DMLC (Part I and Part II)* on board.

* A DMLC need not be issued for the period of validity of the interim certificate. (Standard A. 5.1.3 paragraph 8)

A valid MLC and DMLC (Part I and II) should be accepted by PSCOs as prima facie evidence of compliance with the requirements of the MLC, 2006 (Regulation 5.2.1 paragraph 2).

Further documentation, such as flag State or RO acting on behalf of the flag state MLC inspection reports, crew list, minimum safe manning document, shipboard working arrangements, may be checked by PSCOs with regard to compliance with the requirements of the MLC, 2006 during an initial inspection.

2.2.2. Ships under 500 GT

Ships under 500 GT are not required to have a MLC but they are required to comply with the MLC, 2006. When carrying out an initial inspection the PSCO should refer to annex 6 of this guideline..

2.2.3. Substantial equivalences, exemptions and variations

When carrying out an initial inspection, the PSCO should take into account any substantial equivalent provisions, exemptions, or variations indicated in Part I of the DMLC.

2.3. Clear grounds

A more detailed inspection may be carried out when:

- the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by the MLC, 2006 or are otherwise invalid (Standard A.5.2.1, paragraph 1(a))* or
 - * However, in accordance with the Resolution XVII, during a period of one year following entry into force of the MLC 2006 both the port State and the flag State should give due consideration to allowing ships to continue to operate without the MLC and DMLC, provided that the PSCOs have no evidence that the ship does not conform with the requirements of MLC 2006. The PSCO need not carry out a more detailed inspection just on the ground of absence of MLC, DMLC or interim MLC.
- there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the MLC, 2006 (Standard A.5.2.1, paragraph 1(b)) or
- there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the MLC, 2006 (Standard A.5.2.1 paragraph 1 (c)), or
- there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the MLC,2006 (Standard A.5.2.1, paragraph 1(d)) or
- following investigation of an on shore complaint, (paragraph 2.5.2) in case where this on shore complaint is considered as an issue which falls within the PSC activities, and a more detailed inspection is judged as necessary. (Standard A.5.2.2, paragraph 2) or
- the ship's documentation shows that previously reported deficiencies have not been rectified or completed or the ship flies the flag of a State that has not ratified the MLC, 2006.

A more detailed inspection shall in any case be carried out, where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers (Standard A5.2.1, paragraph 1)or
- the PSCO has grounds to believe that any deficiencies constitute a serious breach of the requirements of the MLC, 2006 (including seafarer's rights). (Standard A.5.2.1, paragraph 1)

2.4. More Detailed Inspection

When carrying out a more detailed inspection, the PSCO should take account of the provision(s) stated in the DMLC, Part I, and use their professional judgement when checking for compliance with some or all the 14 areas listed in annex 1 of this guideline. The PSCO should also consider consulting a competent labour authority ashore in case where expertise is considered necessary.

A more detailed inspection should be carried out to the extent the Competent Authority empowers the PSCO. PSCO must be mindful of national provisions regarding the inspection process and any decisions made thereof.

2.5. Complaints

2.5.1. General

2.5.1.1. "Complaint" means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board (Standard A.5.2.1, paragraphs 1(d) and 3).

2.5.1.2. An on board complaint procedure is a procedure whereby a seafarer or seafarers can complain using the internal procedure in accordance with the ship's on board procedure. This

complaint remains an internal procedure and should not involve the PSCO. Nevertheless, the existence of a functioning procedure can be checked during a more detailed inspection (Regulation 5.1.5).

2.5.1.3. An on-shore complaint procedure is a procedure whereby a seafarer or seafarers can make a complaint to the relevant authority in the port where the ship is calling at, about working and living conditions including seafarer's rights. On-shore complaint handling procedure is detailed in paragraph 2.5.2.2. (Regulation 5.2.2)

Regardless of the source of complaints (as defined in 2.5.1.2. and 2.5.1.3.), appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

2.5.2. On Shore Complaint and Complaint handling procedures

2.5.2.1.

When receiving an on shore complaint or a complaint, the Competent Authority or PSCO assesses the complaint including the on board complaints procedure which has been used and based on professional judgement, decides whether or not the ship will be inspected.

Then, a more detailed inspection should be limited to matters within the scope of the complaint (cf. 2.3 and 2.4 above),

Records of complaints and any outcomes should be kept with the format of annex 2 by the Competent Authority or the PSCO.

2.5.2.2. Specific on-shore seafarer complaint-handling procedure

- Step 1 - Determining whether the complaint should be handled under PSC procedure.
 - o Carrying out an initial assessment to ascertain whether the complaint relates to MLC, 2006 requirements. Those complaints which fall outside the scope of the APPENDIX A5-III(Port State Inspection, General areas of a detailed inspection) of the MLC, 2006 should not be handled under PSC procedure under this Guidelines.
 - o Depending upon the outcome of the initial assessment the PSCO should decide whether or not to carry out a more detailed inspection. (Standard A.5.2.2, paragraphs 1 and 2)
- Step 2 – Inspection process
 - o Ascertain whether the on board complaint procedure has been used. If the procedure has not been used without valid justification the PSCO should advise that, in the first instance, the on board complaint procedure should be used. (Standard A.5.2.2, paragraph 2)
 - o Otherwise, the PSCO should seek to promote a resolution of the complaint at the ship board level (Standard A5.2.2, paragraph 3)
 - o In any investigation, the master, the shipowner and any person involved shall be permitted to express their views.
 - o If during the inspection a deficiency relating to the complaint is recorded and depending upon its seriousness the PSCO should take the appropriate action. (Standard A.5.2.2, paragraph 4)
 - o If the complaint cannot be resolved at shipboard level, the flag State should be notified and requested, within a prescribed deadline decided by the PSCO, to provide advice and a corrective plan of action.(Standard A.5.2.2 paragraph 5)
- Step 3 – Dealing with an unresolved complaint

- If the flag State advises that it will resolve the matter and will provide a corrective plan of action within a prescribed deadline decided by PSCO, the PSCO will not have any further involvement.
- If the complaint is not resolved by the flag State within the prescribed deadline, then the port State shall transmit the inspection result to the ILO with a format of annex 5 and inform the appropriate shipowners' and seafarers' organizations in the port State (Standard A.5.2.2 paragraph 6).

In all case, records of complaints and outcomes should be kept by the port State authority.

Notwithstanding the above, seafarers may consider alternative procedures or Conventions (International Convention on the Arrest of Ships) already established for the handling of incorrect or lacking payment of wages. The PSCO may provide information about relevant persons, organizations or authorities, who may assist in pursuing a **maritime claim**. The PSCO could also collect information and pass the case on to a competent authority ashore.

3. FOLLOW-UP ACTION

3.1 Possible deficiencies

Annex 3 contains a non-exhaustive list of example of deficiencies.

3.2. Deficiencies warranting detention

Annex 4 contains a non-exhaustive list of deficiencies which may warrant detention.

If following an inspection, the PSCO finds that the ship does not comply with the requirements of the MLC, 2006 and,

- The conditions on board are clearly hazardous to the safety, health or security of seafarers, or
- The deficiency constitutes a serious or repeated breach of the requirements of the MLC,2006, including seafarers' rights,

The PSCO shall take steps to ensure that the ship does not proceed to sea until the deficiencies are rectified or until the PSCO has accepted a rectification action plan to rectify the deficiencies and is satisfied that the plan will be implemented in an expeditious manner (Standard A 5.2.1.paragraph 6).

Every effort should be made to avoid a ship being unduly delayed or detained. (Standard A5.2.1, paragraph 8)

3.3. Actions to be considered

3.3.1. Non-detainable deficiencies

Non-detainable deficiencies relating to the MLC, 2006 should be treated in the same manner as any other deficiencies and the usual action taken codes and deadline should be specified. (Standard A.5.2.1, paragraph 4)

3.3.2. Detainable deficiencies

The ship may be released when either:

- the detainable deficiencies have been rectified to the satisfaction of the PSCO, or
- the PSCO has accepted a rectification action plan (RAP) and is satisfied that the plan will be implemented in an expeditious manner and in an appropriate time schedule. (Standard A.5.2.2, paragraph 6)

3.3.3. Rectification Action Plan (RAP)

When deciding whether or not to accept a RAP the following elements should be considered:

- the length and nature of the intended voyage or service;
- the nature of the hazard to seafarers' safety, health or security;
- the seriousness of the breach of the requirements of the MLC, 2006 (including seafarers' rights);
- any previous history of deficiencies or repeated deficiencies;
- whether or not the appropriate work or rest periods for seafarers are being observed;
- the safe manning requirements of the flag State;
- the number and nature of deficiencies found during the particular inspection.

It is the joint responsibility of the shipowner and the master to propose and implement a RAP. The RAP should specify the actions required and agreed time frame acceptable to all parties, within which period the prescribed items will be rectified.

The RAP should be submitted to the flag State or Recognised Organisation (RO) authorised by the flag State for formal acceptance by the master on behalf of the shipowner accordingly *. This should occur before the action plan is proposed to the PSCO within the prescribed deadline decided by PSCOs.

** taking into account Flag State responsibilities under Standard A 5.1.4. paragraph 5*

When the RAP is being considered the PSCO may consult other parties (appropriate shipowners and seafarer's organizations in the port State in which the inspection is carried out).

The RAP should contain a commitment by the shipowner to facilitate the inspection of the ship by PSCOs in the next port of call in order to verify that the RAP has been properly implemented. The RAP must be attached to the report of inspection.

The PSCO should inform the master that the RAP should be properly implemented and carried out in the time frame agreed, if not, the ship may be subject to detention.

The RAP is a provision and procedure mentioned in the MLC, 2006, standard A5.2.1. This means that the PSCO may become involved in actions stipulated during PSC inspections elsewhere in the world.

However, the PSCO is not bound by the agreed RAP.

4. REPORTING

4.1. Reports

4.1.1. Notifications

The table below is a representation of a reporting matrix associated with the type of deficiencies found, complaint and who should be informed:

	Appropriate Shipowners' and Seafarers' organization in the port State.	Director General of the ILO	Flag State	PSC authority of next port	Report forms
Significant deficiency* or deficiency in connection with Complaint	Must be informed	May be informed if any reply from flag State	May be informed	May be informed according port State Procedure	Using report annex 5

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On shore complaint not resolved	Must be informed	Must be informed	Must be informed	May be informed according port State Procedure	Using report annex 5
Ship detained due to MLC, 2006 deficiency	Must be informed	May be informed	Must be informed	May be informed Informed by APCIS	Using notice of detention (See Section 2-4 of Tokyo MOU Manual)
RAP has been agreed.	May be informed	May be informed if any reply from flag State	Must be Informed	May be informed	Using notice of release (See section 2-5 of Tokyo MOU Manual)

*Whether or not deficiencies are determined to be significant will depend upon the professional judgement of the PSCO concerned. (For further guidance see the Guidelines for Port State Control Officers carrying out inspections under the MLC, 2006, paragraphs 90, 91, 92, 93).

4.1.2. Reporting

Any MLC, 2006 related deficiency found should be recorded as an individual deficiency in the inspection report. In accordance with the procedure of Tokyo MoU, the codes to be used while inputting the data are the ones attached in Annex 9

As an example, MLC, 2006-related deficiencies should be reported as follows:

Risk area – Sub area	Working and Living Conditions – Living Conditions
Defective item	Sanitary facilities
Defective Item Nature of defect	Missing, Damaged, Not as required, Inoperative, Dirty, Insufficient, , Not properly maintained
Convention reference	MLC2006 A.3.1.11
Delay Action taken	Rectified, At the next port, Within 14 days, Before departure, At an agreed repair port, As in the agreed class condition, As in the agreed flag State condition, Master instructed to..., As in the agreed rectification action plan
Appropriate Seafarers' and Ship-owners' organizations in the port State informed	
Director General ILO informed	
Additional comments	The PSCO should explain the defect in the same way on both the inspection report and the information system In the event that a RAP is issued, this document should be attached to the inspection report and inserted as an attachment in the information system.

In the case of a new or single deficiency which is either a deficiency related to SOLAS, STCW or other conventions, should be recorded with those conventions references.

When the deficiency, which is only a MLC related deficiency, is a significant deficiency and when this deficiency is repeated, and when it justifies a detention or when it is related to a complaint, the convention reference must be a MLC, 2006 reference.

Annex 1

List of 14 areas subject to a more detailed inspection

General areas that are subject to a more detailed inspection by a PSCO in a port of a Member carrying out a port State inspection pursuant to paragraph 2.4.:

1. Minimum age of seafarers
2. Medical certification of seafarers
3. Qualifications of seafarers
4. Seafarers' employment agreements (SEA)
5. Use of any licensed or certified or regulated private recruitment and placement service for seafarers
6. Hours of work or rest
7. Manning levels for the ship
8. Accommodation
9. On-board recreational facilities
10. Food and catering
11. Health and safety and accident prevention
12. On-board medical care
13. On-board complaint procedures
14. Payment of wages

Annex 2

**MODEL for
Details to be recorded when receiving an on-shore complaint**

**Confidential document if details of the seafarer are included (standard A.5.2.2,
paragraph 7)**

Date/time, local time of receipt :
Name of the complainant :
Address of the complainant :
:
Relation to the ship :
Confidentiality necessary : yes/no

Ship's particulars :
Ship's name, IMO-number :
Flag :
Ratifying State : yes/no
Shipowner's name:
IMO company number
Shipowner's address:

Particulars of the complaint:.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Relevant Article, Regulation or Standard:.....
.....
.....

Attached file :
A/.....
B/.....
C/

Action Taken :
.....
.....

Follow-up action :
.....

Annex 3

List of example deficiencies in the 14 areas

Examples of deficiencies* in the 14 areas listed in annex 1 include, but are not limited to

Certificates	Art IV.5
MLC or DMLC or interim MLC expired or missing ^a	Regulation 5.1.3 para. 3 and 4 Resolution XVII
^a : for ships of 500 or over, engaged in international voyages, flying the flag of a ratifying state after one year of the entry into force - Resolution XVII)	
Minimum age	Art III.c, Regulation 1.1
Person under the age of 16 working on board ship	Standard A 1.1 para.1
Seafarer under the age of 18 regularly working at night (except exemption in case of training programme) on board	Standard A 1.1 para. 2 and A 1.1 para. 3
Seafarer under the age of 18 carrying out tasks on board liable to jeopardize his/her health or safety on board	Standard A 1.1 para. 4
Medical certificate	Art IV.4, Regulation 1.2
<i>For more precision, the PSCO should deal with this area based on the existing standards of STCW Convention.</i>	
Seafarers on board without a valid medical certificate* *Except urgent cases or in case where the period of validity of a certificate expires in the course of voyage.	Standard A 1.2 para. 1, A 1.2 para. 8 and A 1.2 para. 9
Medical certificates not provided in English language	Standard A 1.2 para. 10
Seafarer working on the ship or performing tasks contrary to a restriction on a medical certificate	Standard A 1.2 para. 6 (b)
Qualifications of seafarers	Art IV.1, Regulation 1.3
<i>For more precision, the PSCO should deal with this area based on the existing standards of STCW Convention. In such cases PSCOs should refer to the PSC Guideline concerning the inspection of this Convention,(PSC manual 6-2)</i>	
Seafarer who is not trained or certified or endorsed, or otherwise qualified to perform required duties working on board the ship	Regulation 1.3 para. 1
Certificates or endorsements are not up to date or have expired	Regulation 1.3 para. 1
Absence of a valid dispensation issued under STCW, where needed	Regulation 1.3 para. 3
Seafarer's employment agreements SEA	Art IV.2, Regulation 2.1
Seafarers do not have a written SEA signed both by the seafarer and the shipowner or a representative of the shipowner	Standard A 2.1 para. 1 (a),(c)
A seafarer, with a SEA that does not contain all the required items required in Standard A 2.1. paragraph 4 (a) through (k)	Standard A 2.1 para. 4 (a)-(k)
A seafarer with a SEA that is inconsistent with the national requirements of the flag State	Standard A 2.1 para. 1
Seafarers are not given a record of their employment on the ship on completion of engagement	Standard A 2.1 para. 1 (e)
A copy of collective bargaining agreement that forms all or part of the SEA is either not on board nor available., A standard form of SEA and relevant part of collective bargaining agreement for inspection not available in English	Standard A 2.1 para. 2
The SEA contains clauses that violate seafarers' rights	Regulation 2.1

* Deficiencies referred to in more than one Convention shall be recorded only once with the most appropriate convention reference

Recruitment and placement	Art IV.2, Regulation 1.4
Seafarers on board recruited by unlicensed, uncertified or unregulated private recruitment and placement service(s) operating in the territory of a State which is party to the Convention	Regulation 1.4 para. 2
Shipowner, who uses seafarers recruitment and placement services based in countries and territories in which the Convention does not apply, could not ensure that those services meet the requirements of the MLC 2006	Regulation 1.4 para. 3
Use of a private recruitment and placement service requiring the seafarer to pay a fee or other charge for employment services	Standard A 1.4 para. 5

Hours of work or rest	Art IV.3, Regulation 2.3
The standardized table in the working language and in English with shipboard working arrangements is not available, not posted (not easily accessible to the crew) or does not contain the required information	Standard A 2.3 para. 10 and 11
Records of seafarer's daily hours of work or rest are not maintained on board. These records are not in the working language(s) of the ship and in English.	Standard A 2.3 para.12
Seafarers' daily hours of work and hours of rest does not comply with the requirement of MLC 2006.(Except in case where a Member permits exceptions to the standards as set out. Provisions for exceptions (Standard A 2.3. Para.13)	Standard A 2.3 para 5, 6, 7, 13 and 14

Manning levels for the ship <i>For more precision, the PSCO should deal with this area based on the existing standards of SOLAS Convention. In such cases, PSCO should refer to the Guideline concerning the inspection of this Convention('PORT STATE CONTROL MANUAL Section 6-9)</i>	Art IV.4, Regulation 2.7
The number and job category of seafarers' working on board is not in accordance with MSMD	Standard A 2.7 para 1

Accommodation (see note)	Art IV.3, Regulation 3.1
Number, size and relevant equipments and furnishings of sleeping rooms on the ship does not conform to the MLC, 2006	Standard A 3.1 para 6 (c), (d), (e), 7, 8 and 9
There is more than one seafarer per berth	Standard A 3.1 para 9 (d)
Areas concerning accommodation, hospital accommodation, and recreational facilities do not conform to the MLC, 2006	Standard A 3.1 para 6, 7, 8, 10 and 17
Air conditioning, lighting or ventilation is inadequate or not functioning correctly	Standard A 3.1 para 7 and 8
Separate sleeping rooms are not provided for males and females	Standard A 3.1 para 9 (b)
Separate sanitation facilities are not provided for males and females	Standard A 3.1 para 11 (a)
Sanitary facilities and laundry facilities do not comply with the MLC, 2006.	Standard A 3.1 para 11 and 13
Hospital accommodation is being used for a purpose other than the treating of sick or injured persons	Standard A 3.1 para 12
Seafarer accommodation or recreational facilities are not being maintained in a clean and tidy condition,	Standard A 3.1 para 9 (c) and 17
Regular inspections of seafarer accommodation are not being carried out by the master or another designated person. Or the results of those inspections are not available for review.	Standard A 3.1 para 18
Exposure to hazardous levels of noise, vibration, fumes, chemicals and other ambient factors in the seafarer accommodation space on board including galleys, mess room and recreational facilities	Standard A 3.1 para 6 (h) and IMO code on noise level on board ships resolution A 468(XII)
Note : The requirements in the MLC, 2006 which relate to ship construction and equipment apply	

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only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the ILO Accommodation of Crews Convention (Revised), 1949 (No. 92), and the ILO Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Party to the MLC, 2006. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction (Regulation 3.1 para 2)

On-board recreational facilities	Art IV.3, Regulation 3.1
Appropriate seafarers' recreational facilities, amenities and services are not provided on board taking account Regulation 4.3 and standard A 4.3	Standard A 3.1 para 17

Food and catering	Art IV.3, Regulation 3.2
The ship's cook is under the age of 18	Standard A 3.2 para 8
Food and drinking water are not of appropriate quality, nutritional value and quantity, for the seafarers on the ship	Regulation 3.2.1 and Standard A 3.2 para 1 and 2 (a)
Seafarer is charged for food and/or is not provided with drinking water	Regulation 3.2.2
Seafarer who has responsibility for preparing food is not trained or not instructed as required	Standard A 3.2 para 5
No evidence that the cook is properly trained (regarding DMLC)	Standard A 3.2 para 3
Frequent and documented inspections of the food or water, or of the Preparation, storage or handling areas, are not being carried out. The records of those inspections are not maintained	Standard A 3.2 para 7
Catering facilities are not maintained in hygienic condition	Standard A 3.2 para 2 (b)

Health and safety protection and accident prevention	Art IV.1, Regulation 4.3
Conditions exist on board which may directly impair efforts to prevent accidents and exposure to harmful levels of noise, vibration, fumes, chemicals and other ambient factors	Standard A 4.3 para 1 (b)
No evidence of on-board programmes for the prevention of occupational accidents, injuries and diseases meeting the standards of MLC, 2006, or not appropriate	Standard A 4.3 para 1 (c)
No ships safety committee has been established on board a ship on which there are five or more seafarers	Standard A 4.3 para 2 (d) and 5
Seafarers are unaware of the measures adopted by the shipowner to provide on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection	Standard A 4.3 para 1 (c)
Risks posed to seafarers under the age of 18 have not been addressed	Standard A 4.3 para 2 (b)
Occupational accidents are not being investigated or reported in accordance with the ship's procedures	Standard A 4.3 para 5

On board medical care	Art IV.4, Regulation 4.1
<i>For assurance, PSCO should deal with this area based on the existing standards of STCW Convention for the person in charge of medical care on board who are not medical doctors. And more assurance, PSCO should refer to the Guideline concerning the inspection of this Convention</i>	
No qualified seafarer in charge of medical care, nor seafarer on board competent to provided medical first aid in case where ships do not carry a medical doctor. Or on board without a valid certificate.	Standard A 4.1 para 4 (c)
No medicine chest, medical equipment or a medical guide on board	Standard A 4.1 para 4 (a)

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No medical doctor on-board ships ordinarily engaged in international voyages of more than three days duration and carrying one hundred persons or more, or medical doctor is not qualified.	Standard A 4.1 para 4 (b)
A seafarer is not provided with appropriate health protection and medical care on board ship or ashore	Standard A 4.1 para 1 (c) and (d)
No medical report forms on board	Standard A 4.1 para 2
There is evidence that a seafarer is being charged for medical or dental care contrary to national law or practice	Regulation 4.1.1 (d)

<i>On-board complaint procedures</i>	<i>Art III, IV, Regulation 5.1.5</i>
No document indicating an on board complaint procedure	Standard A 5.1.5 para 1
A copy of the on-board complaint procedures applicable on the ship has not been provided to seafarers, or the copy provided is not in the working language of the ship	Standard A 5.1.5 para 4
Ship's on-board complaint procedures are not operating	Standard A 5.1.5 para 2
Victimization of a seafarer for making a complaint	Standard A 5.1.5 para 3

<i>Payment of wages</i>	<i>Art III.d, IV.2, Regulation 2.2</i>
A seafarer has not been paid at monthly intervals in full for his/her work in accordance with SEA or collective bargaining agreement	Standard A 2.2 para 1
A seafarer has not been given a monthly account (such as a wage slip) of wages	Standard A 2.2 para 2
Seafarers are not provided with a means transmit their earnings to their family, allotments are not being paid or are not being paid in accordance with the seafarer's instructions	Standard A 2.2 para 3 and 4
Charges for converting and transmitting currencies are excessive and do not correspond to exchange rates in accordance with national requirements	Standard A 2.2 para 5
More than one set of wage accounts are in use	Standard A 2.2 para 2

Note about "national standards": national standard are listed in DMLC Part I and Part II identifies the measures adopted to ensure on-going compliance with the national requirements between inspections and the measures proposed to ensure there is continuous improvement.

Annex 4

List of example deficiencies warranting detention

The following non exhaustive list contains examples of deficiencies (including seafarers' rights) which may justify the detention of the ship. For more precision, when relevant, the PSCO should refer to relevant Guideline (Tokyo MOU Port State Control Manual, Section 6-2 and 6-9):

Deficiencies	References
Confirmation that seafarers are trained and certified as competent or otherwise qualified to perform their duties (in accordance with the mandatory instruments adopt by IMO) is missing. For more assurance, PSCO should deal with this area based on the existing standards of STCW Convention.	Art IV para 1 Regulation 1.3
Persons under the age of 16 years working on board	Art III para c Standard A 1.1 para 1
Seafarers on board under the age of 18 years (except training programme) are regularly working at night, or work likely to jeopardise their health or safety.	Art IV para 3 Standard A 1.1 para 2 and 4
Several seafarers not holding valid medical certificate(s) <u>repeatedly</u> . For more assurance, PSCO should deal with this area based on the existing standards of STCW Convention concerning this area.	Art IV para 4 Regulation 1.2.1
Seafarers on board the same ship repeatedly not in possession of valid SEA or seafarers with SEAs containing clauses contradictory to seafarers' rights.	Art IV para 2 Regulation 2.1 para 1 and 3 Standard A.2.1 para 1
Evidence that maximum hours of work have been <u>repeatedly</u> exceeded or evidence that minimum hours of rest have repeatedly not been provided. Note: Excessive fatigue may occur and constitute immediate risk to the safety of the ship, the crew or the environment.	Art IV para 3 Regulation 2.3 and Standard A 2.3 para 5 (a) or Regulation 2.3 and Standard A 2.3 para 5 (b)
Deficiencies which are clearly hazardous to seafarers' health in accommodation space including galley and sanitary facilities.	Art IV para 3 Standard A 3.1 para 11 and Standard A 4.3
Quality and quantity of food and drinking water not sufficient for the intended voyage	Art IV para 3 Regulation 3.2 and Standard A 3.2 para 2
Required medical guide repeatedly missing or medicine chest or medical equipment, not on board, not updated or out of date	Art IV, para 4 Standard A 4.1 para 4 (a)
No doctor, nor seafarer in charge of medical care or medical first aid on board. For assurance, PSCO should deal with this area based on the existing standards of STCW Convention for the person in charge of medical care on board who are not medical doctors.	Art IV para 4 Standard A 4.1 para 4 (b) and (c)
Repeated cases of non-payment of wages or the non-payment of wages for a long period.	Art IV para 2 Standard A 2.2 para 1 and 2

Annex 5

Standard form to report

Report of deficiencies related to the Maritime Labour Convention, 2006

From :
Fax n° :
E-mail :

to

Port State seafarer's organisation :
Ports State shipowner's organisation :
Flag State or recognised organisation :
Director General of the ILO :
Competent authority at next port :

Number of pages, incl. this :

Dear Sir / Madam,

[Ship's name, IMO, flag]

The [Name of Authority] Maritime Authority has on [dd/mm/yyyy] carried out an inspection of the above ship at [Port, Country].

During the inspection,

- one or more significant deficiencies were identified
- one or more deficiencies related to a complaint were raised (according paragraph 3 of Standard A 5.2.1)
- an on-shore complaint has not been resolved

Additional comments :

.....

.....

.....

The Flag State representative is invited to

-
- be present on board
- reply before [dd/mm/yyyy – hh:mm]

Enclosed please find

- a copy of the Report of Inspection forms A & B
- a copy of the Notice of Detention for the Master
- other documents :

For further inquiries, please contact [Name and contact details]

Yours faithfully,

Annex 6

Initial inspection for ships under 500GT

These ships are not required to have a MLC and DMLC but the PSCO should seek evidence that the ship has been inspected by the flag State according to the requirements of the MLC, 2006 (Standard A.5.1.4 paragraph 4).

If the ship does have a valid MLC, (Regulation 5.1.3 paragraph 2) then the procedure for ship of 500gt and above applies.

The PSCO should take into account any flag State inspection reports relating to compliance with the MLC, 2006 when considering whether to conduct a more detailed inspection. The report is the evidence that the inspection has been carried out according to the requirements of the MLC, 2006.

And, considering the policy regarding Resolution 17 on the practical implementation of the issue of certificates on the entry into force, and taking account of the necessary period for the each Member to prepare its regime for inspection pursuant to the MLC, 2006, for the time being PSCO can decide not to carry out a more detailed inspection on a ship flying the flag of any State that has ratified the Convention without the certificate and declaration, or other Flag States' inspection reports.

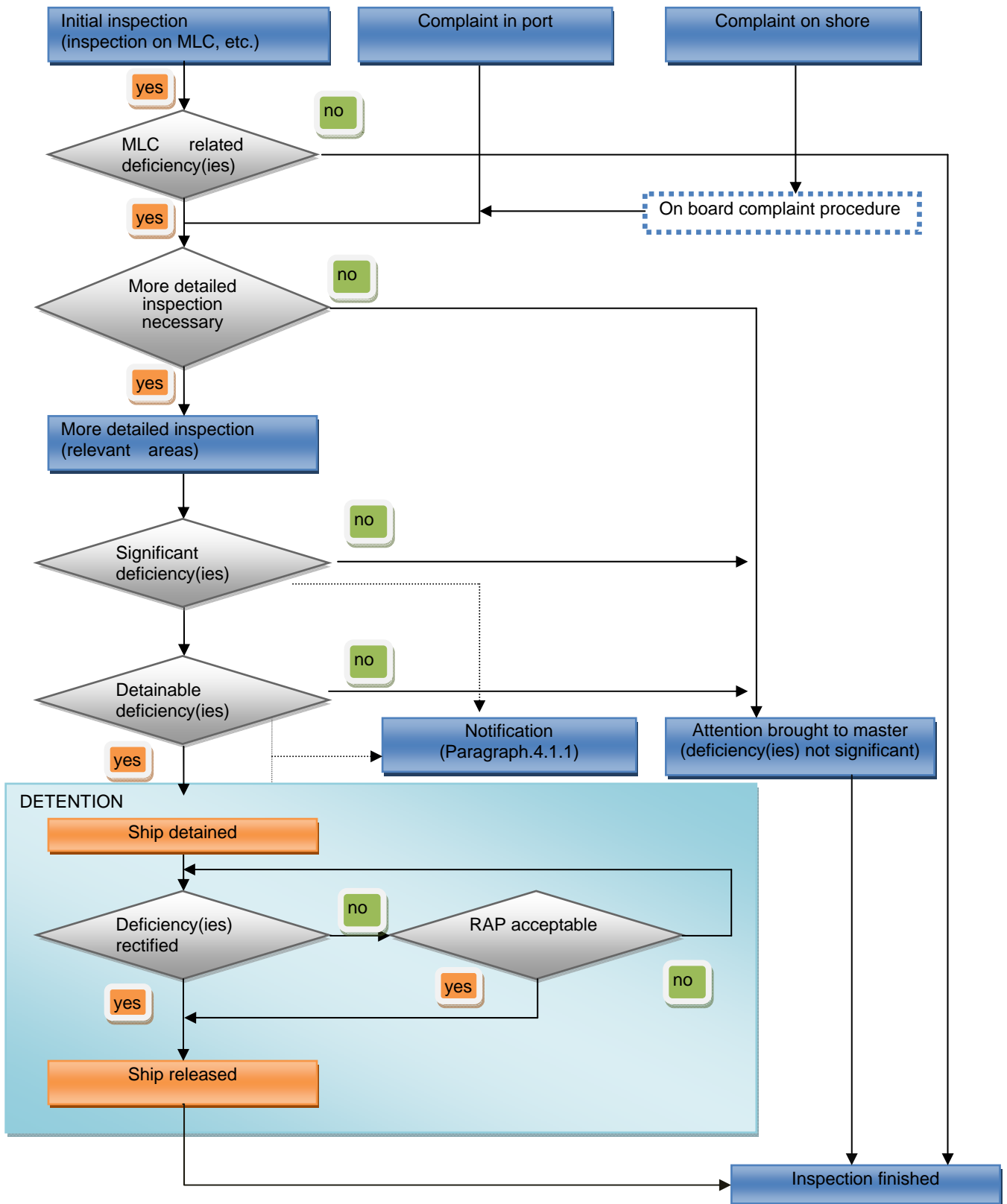
However, if there are clear grounds for believing that the working and living condition on the ship do not conform to the requirements of the MLC, 2006, or if there is a complaint alleging that non-conformity, PSCO should carry out inspections relevant to that non-conformity or complaint.

In case of perceived deficiency, the master should be given an opportunity to produce evidence of compliance with the MLC, 2006 or evidence of substantial equivalencies and provide any necessary explanation; As MLC and DMLC are not issued to these ships, the PSCO, may, in case of doubt, contact the flag State authority and obtain advice.

A more detailed inspection should be carried out according to paragraph 2.3 of this Guideline in cases where there of clear grounds that the requirements of the MLC, 2006 are not being met.

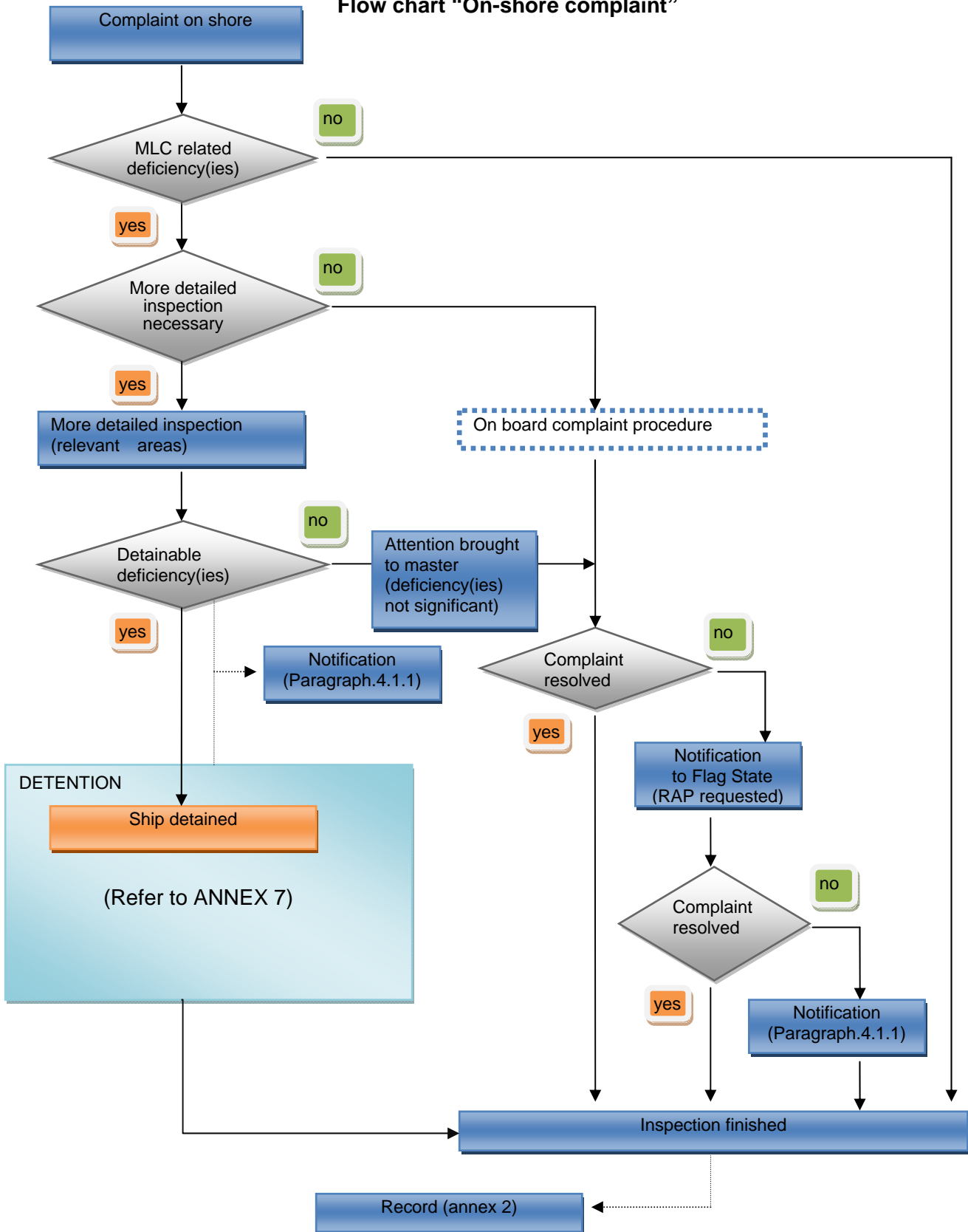
Annex 7

Flow chart "Inspection"



Annex 8

Flow chart "On-shore complaint"



Annex 9
MLC, 2006 Codes of deficiencies

Reminder codes relating to MLC, 2006

This list of deficiencies is wider than possible deficiencies linked to the 14 points of annexe 1 and detailed in annex 3 and 4 and thus, offers the opportunity to report deficiencies related to a complaint.

Code	Defective item	References	Nature of defect
MLC,2006 Ship's certificates and documents			
01139	MLC or interim MLC Issue Issue or endorsement Issue (other government) Issue or endorsement (other government) Duration Duration and validity Surveys	Reg 5.1.3 Std A 5.1.3	Missing, Invalid, Entries missing, Not properly filled, Withdrawn, Incomplete, See comment, Expired, Survey out of Window, Incorrect language;
01140	DMLC, parts one and two Issue Issue or endorsement Issue (other government) Issue or endorsement (other government) Form Surveys Incomplete Nor properly filled	Reg 5.1.3 Std A 5.1.3	Missing, Invalid, Entries missing, Not properly filled, Withdrawn, Incorrect language, Incomplete, See comment
01329	Report of inspection Validity, Initial, Intermediate Renewal Incomplete Endorsement	Reg 5.1.3 Std A 5.1.3 / 11	Missing, Invalid, Entries missing, Not properly filled, Withdrawn, Incorrect language, Incomplete, See comment
01218	Medical certificate	Art IV.4 Reg 1.2.1/2 Std A.1.2. 1/3/4/6/7/8/9/ 10	Missing, Invalid, Entries missing, Not properly filled, Incorrect language, Incomplete, Expired, See comment
01330	Procedure for complaint	Art IV.2 Reg 5.1.5 Std A 5.1.5	Missing, Invalid, Entries missing, Not properly filled, Incorrect language, Incomplete, See comment
01134	Other (Ship's certificates and documents)		Other

MLC, 2006 Minimum requirements to work on a ship			
18101	Minimum age Seafarer under the minimum age dangerous work exception	Art III (c) Reg 1.1 Std A 1.1. 1/3/4	Not as required
18102	Night working Night working for seafarer under the age of 18	Art IV.3 Std A.1.1.2/3	Not as required
18103	Medical fitness	Art IV.4 Reg 1.2 Std A 1.2.1/3	Not as required, See comment
01219	Training and qualification Personal safety training Certificates	Art IV.2 Reg 1.3/2 STCW/CII-C VII	Missing, Not as required, Expired, See comment

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18104	Recruitment and placement service or agency certified or licensed, charge for the seafarer	Art IV.2 Reg 1.4 Std A 1.4 /2, 5 (b)	Insufficient doc, Not as required See comment ,
18199	Minimum requirements for seafarers to work on a ship (Other)	Other	Other

MLC, 2006 Conditions of employment

01220	Seafarer' employment agreement SEA Copy English language	Art IV.2 Reg 2.1 Std A 2.1/1 (d), 2	Missing, Invalid, Entries missing, Not posted, Not properly filled, Incorrect language, not Available, Not posted
01221	Record of employment	Art IV.2 Reg 2.1 Std A 2.1/1(e)	Missing, Invalid, Entries missing, Not properly filled, Incorrect language, missing information, not Available, –
01331	Collective bargaining agreement	Art IV.2 Reg 2.1 Std A.2.1/2	Missing, Invalid, Entries missing, Not properly filled, Incorrect language, missing information, not Available, –
18203	Wages Interval monthly account unauthorized deduction under minimum	Art IV.2 Reg 2.2 Std A.2.2/1,2, 3, 6	Not according SEA, no records, missing information, Not adequate, Missing
18204	Calculation and payment normal hours exceeded overtime record of overtime,	Art IV.2 Reg 2.2 Std A.2.2/ 6	Not according SEA, no records, missing information, Not adequate, Missing
18205	Measures to ensure transmission to seafarer's family Charge for allotment transmission service	Art IV.2 Reg 2.2 Std A.2.2/ 4,5	Not according SEA, no records, missing information, Not adequate, Missing
18201	Fitness for duty Hours of work and hours of rest	Art IV.2 Reg 2.3 Std A2.3/2,3, 4,5,6,7,8,9,13	Rest hours insufficient, Work hours exceeded, Unfit for duty, Not as required
01306	Schedule for service at sea and service at port	Art IV.2 Reg 2.3 Std A2.3/10 STCW/PA/CV III/1.5	Missing, Not properly filled, Not posted, Not as required
18202	Maximum hours of work or the minimum hours of rest required by national law or regulation or applicable collective agreement	Art IV.2 Reg 2.3 Std A2.3/10 STCW/PA/CV III/1	Missing, Not posted, Incorrect language, Entries missing, Not as required, Not adhered to
01308	Records of seafarers' daily hours of work or rest	Art IV.2 Reg 2.3 Std A2.3/12, 13	Missing, False, Not endorsed Incorrect language, Entries missing, Incorrect entries
01209	Manning specified by the minimum safe manning document	Art IV.2 Reg 2.7 Std A2.7/1,2, 3 S60/CV/R13, S74/CV/R13, S74-6/CV/R 13 S74-23/CV/R 14.2	Missing, Invalid, Not as required, Entries missing
18299	Other conditions of employment other	Art IV.2	Not according SEA

MLC,2006 Accommodation, recreational facilities, food and catering

Accommodation and recreational facilities

18310	Minimum headroom	Art IV.3 Reg 3.1	Not as required
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		Std A.3.1/6(a)	
18322	Insulation	Art IV.3 Reg 3.1 Std A3.1/6(b)	Missing, Damaged, Insufficient, Inoperative, Not as Required
18304	Lighting	Art IV.3 Reg 3.1 Std A3.1/6(g) Std A3.1/8	Missing, Incomplete, Inoperative, Insufficient, Damaged
18321	Heating, air conditioning and Ventilation	Art IV.3 Reg 3.1 Std A3.1/7	Missing, Under heated, Overheated Inoperative, Not as required, Obstructed, Dirty filters, Inoperative, Insufficient
18303	Drainage	Art IV.3 Reg 3.1 Std A3.1/6(g)	Obstructed, Not as required, Missing, Damaged
18301	Noise, vibration and other ambient factors	Art IV.3 Reg 3.1 Std A3.1/6(h)	Not as required, Documentation, missing, Insufficient doc, Noisy
18302	Sanitary facilities	Art IV.3 Reg 3.1 Std A3.1/11	Missing, Not hygienic, Damaged, Dirty, Not as required, Inoperative Insufficient, Not properly maintained
18305	Hospital accommodation (sickbay)	Art IV.3 Reg 3.1 Std A3.1/12	Incomplete, Missing manual, Not as required, Not hygienic
18306	Sleeping room, additional spaces	Art IV.3 Reg 3.1 Std A3.1/9	Dirty, Not hygienic, Signs of parasites, Not as required
18309	Berth dimensions, etc.	Art IV.3 Reg 3.1 Std A3.1/9	Missing, Damaged, Not as required
18311	Mess rooms and recreational facilities,	Art IV.3 Reg 3.1 Std A3.1/10, 14,17	Insufficient, Not as required
18308	Furnishings	Art IV.3 Reg 3.1 Std A 3.1/9(n)	Missing, Damaged, Not as required
18326	Laundry, Adequate locker	Art IV.3 Reg 3.1 Std A3.1/13	Damaged, Missing, Insufficient, Not hygienic, Not as required
18323	Office	Art IV.3 Reg 3.1 Std A3.1/15	Insufficient, Missing ; Not as required
18307	Direct openings into sleeping rooms from cargo/machinery space, etc.	Art IV.3 Reg 3.1 Std A3.1/6(e)	Unsafe, Damaged, Not as required
09122	Record of inspection	Art IV.3 Reg 3.1 Std A3.1/18	Missing, Not as required
09142	Exemptions	Art IV.3 Reg 3.1 Std A3.1/20, 21	Missing, Not as required
18399	Other (accommodation)	Art IV.3 Reg 3.1	Other
Food and catering			
18312	Galley, handling room (maintenance)	Art IV.3 Reg 3.1 Std A3.2/2(b)	Missing, Damaged, Not hygienic
18327	Ventilation	Art IV.3 Reg 3.1 Std A3.1/6(h), A3.1/7	Dirty filters, Not as required, Inoperative, Missing, insufficient
18407	Lighting	Art IV.3 Reg 3.1	Inoperative, Missing, Insufficient, Damaged

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		Std A3.1/6(g)	
18313	Cleanliness	Art IV.3 Reg 3.2 Std A3.2/2(b)	Dirty, Not hygienic, Signs of vermin Not as required
18314	Provisions quantity (food and drinking water supply)	Art IV.3 Reg 3.2 Std A3.2/2(a)	Missing, Insufficient, Not as required
18315	Provisions quality and nutritional value, religions and cultural custom	Art IV.3 Reg 3.2 Std A3.2/2(a)	Rotten, Not properly segregated Expired, Not as required
18316	Water, pipes, tanks	Art IV.3 Reg 3.2 Std A3.2/2(b)	Not as required, Damaged Corroded
18324	Cold room, Cold room cleanliness, cold room temperature	Art IV.3 Reg 3.2 Std A3.2/2(b)	Missing, Inoperative, Damaged, Not properly located, Overheated, Under heated, Not properly segregated, Dirty, Not hygienic, Not as required
18317	Food hygiene	Art IV.3 Reg 3.2 Std A3.2/2(b)	Not hygienic
18318	Food temperature	Art IV.3 Reg 3.2 Std A3.2/2(b)	Overheated, Under heated ,Not as required
18319	Food segregation	Art IV.3 Reg 3.2 Std A3.2/2(b)	Not adequate
18320	Record of inspection	Art IV.3 Reg 3.2 Std A3.2/7	Missing, Not as required, Entries missing, Not properly filled, Not updated
18325	Training and qualification of ship's cook Dispensation	Art IV.3 Reg 3.2 Std A3.2/3,4, 5,6	Missing, Not as required
18399	Other (food)	Art IV.3 Reg 3.2 Std A3.2	Other

MLC, 2006 Health protection, medical care, welfare and social security protection			
Health protection			
18402	Access to on shore medical doctor or dentist	Art IV.4 Reg 4.1 Std A.4.1/1(c)	Not as required
18403	Standard medical report form	Art IV.4 Reg 4.1 Std A.4.1/2	Missing, not properly filled, Not as required
18423	Preventive information	Art IV.4 Reg 4.1 Std A.4.1/1(e)	Missing, Not as required
18401	Medical equipment, medical chest, medical guide	Art IV.4 Reg 4.1 Std A4.1/4 (a)	Missing equipment, Not as required, Expired, Not hygienic
18404	Medical doctor or person in charge of medical care	Art IV.4 Reg 4.1 Std A4.1/4 (b) (c)	Missing, not familiar
18405	Medical advice by radio or satellite	Art IV.4 Reg 4.1 Std A4.1/4 (d)	Missing equipment, not as required
18406	Charge for the Seafarer	Art IV.4 Reg 4.1 Std A4.1/1(d)	Missing, Not as required
Health and safety protection and accident prevention			
18427	Ship's occupational safety and health policies and programmes	Art IV.1 Reg 4.3 Std 4.3/1(a)	Missing, Not Available, Not as required, Incorrect language, Not updated

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		/4/5	
18428	On board programme for the prevention of occupational injuries and diseases	Art IV.1 Reg 4.3 Std 4.3/1(c) & 4	Missing, Not Available, Not as required, Incorrect language, Not updated
18429	Procedure for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accident	Art IV.1 Reg 4.3 Std 4.3/1(d)	Missing, Not Available, Not as required, Incorrect language, Not updated, Not properly used
18430	Ship's safety committee (required on board ship on which there are five or more seafarers).	Art IV.1 Reg 4.3 Std 4.3/2(d)	Missing, not as required
18431	Investigation after accident	Art IV.1 Reg 4.3 Std 4.3/1(d),6	Missing, Not Available, Not as required, Incorrect language, Not updated
18432	Risk evaluation, training and instruction to seafarers	Art IV.1 Reg 4.3 Std 4.3/1(a), 7,8	Missing, Not Available, Not as required, Incorrect language, Not updated
18499	Other (Health and safety protection and accident prevention)	Art IV.1 and Art IV.4 Reg 4.3	Other

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